

REMARKS

Applicants have canceled claims 19-36, the claims subject to a restriction and/or election requirement, and replaced them with claims 37-47. The new claims correspond to canceled claims 19-36 as follows:

Claim 37 corresponds to former claims 23 and 24.

Claim 38 is directed to the BOLJon marker, support for which may be found in page 13, lines 29-31.

Claim 39 corresponds to former claims 19 and 26

Claim 40 corresponds to former claims 29-30.

Claim 41 corresponds to former claims 29-31.

Claim 42 corresponds to former claims 19 and 22.

Claim 43 corresponds to former claims 19-21.

Claim 44 corresponds to former claims 19, 22 and 26.

Claim 45 corresponds to former claims 19 and 28.

Claim 46 corresponds to former claims 19 and 25.

Claim 47 corresponds to former claims 19, 25 and 27.

Accordingly, no new matter has been added. Thus, entry of these amendments is respectfully requested.

The Office Communication mailed on July 28, 2008 sets forth a Restriction Requirement to one of the following inventions under 35 U.S.C. §§ 121 and 372:

I. Claims 19 (in part), 20-21 and 23-28, drawn to a method for producing agronomically superior, female fertile, double low restorer *Brassica napus* lines wherein one of the parents has a deleted radish *Pgi-2* allele, via irradiation and crossing with a particular second parent, and via phenotype testing; the resultant restorers produced thereby; and methods for their use to produce hybrid plants.

II. Claims 19 (in part), 22 and 29-31, drawn to a method for producing agronomically superior double low restorer *Brassical napus* lines wherein one of the

parents has a deleted radish *Pgi-2* allele, via testing with molecular markers.

III. Claim 32 drawn to isolated marker PGIo1 (SEQ ID NO:1)

IV. Claim 33, drawn to isolated marker PGIUNT (SEQ ID NO:2)

V. Claim 34, drawn to isolated marker PGIint (SEQ ID NO:3)

VI. Claim 35, drawn to isolated marker BoIJon (SEQ ID NO:4)

VII. Claim 36, drawn to isolated marker CP418 (SEQ ID NO:5)

The restriction is moot with respect to now canceled claims 19-36. Applicants submit that new claims 37-47 are consonant with Groups I and II, and that claims 37-41 are consonant with Group I. Applicants elect Group I corresponding to claims 37-41. This election is made with traverse.

The Examiner has alleged that the common technical feature linking Groups I and II does not constitute an advance over the prior art. Specifically, the Examiner has determined that Delourme, et al., teaches the use of a *Brassica napus* restorer line with a missing radish *Pgi-2* allele for the production of a double low restorer line with good agronomic characteristics including female fertility, wherein the resultant restorer line also has low glucosinate levels. As such, the claims are believed to lack unity of invention. Applicants respectfully disagree.

Delourme, et al., discloses introgressing an *Rfo* gene from radish (*Raphanus sativus L.*) into rapeseed through intergeneric hybridization, then performing extensive backcross and pedigree breeding to improve the low female fertility. (Delourme, et al., at p. 1, paragraph 1).

Ultimately, that process yielded double low restorer lines, which had female fertility equal to one of the rapeseed maintainer lines. Meiotic behavior was stabilized leading to a more regular transmission of the restorer gene through backcross or self pollination. Some lines were identified to have lost the *Pgi-2* allele of radish.

Claims 37-47 possess a common technical feature, namely that the double low restorer lines of *Brassica napus* for Ogura cms present the combination of five markers, i.e., PGIol, PGInt, BolJon and CP418, designated as SEQ ID NOS:1-5 respectively. These five marker are not taught in Delourme, et al.

In light of the foregoing, Applicants submit that claims 37-47 are linked by a common technical feature that constitutes an advancement over the prior art. Accordingly, Applicants respectfully request withdrawal of the restriction requirement with respect to Groups I and II and for examination to proceed on the merits with respect to claims 37-47.

In view of the above, it is respectfully requested that these amendments now be entered, and that prosecution on the merits of this application now be initiated. If, however, for any reason the Examiner does not believe such action can be taken, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any objections which he may have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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